



BOARD OF APPEALS
Jesse Geller, Chairman
Jonathan Book
Christopher Hussey

Town of Brookline *Massachusetts*

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2014-0042
NORTHEASTERN UNIVERSITY
186 KENT STREET

Petitioner, Northeastern University, applied to the Building Commissioner for permission to increase parking and construct a pavilion with new press boxes and a grand stand with 109 additional seats. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed August 28, 2014 at 7:00 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney (if any) of record, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on August 7, 2014 and August 14, 2014 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

186 KENT ST – CONSTRUCT NEW BLEACHERS AND PAVILION in an T-5, Two-Family and Attached Single-Family, residential district, on August 28, 2014, at 7:00 PM in the 6th Floor Selectmen's Hearing Room (Petitioner: NORTHEASTERN UNIVERSITY; Owner: NORTHEASTERN UNIVERSITY)

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law:

- 1. Section 6.02, Paragraph 1: Table of Off-Street Parking Regulations**
- 2. Section 6.02.4.c: Off-Street Parking Space Regulations**
- 3. Section 8.02.1 and 2: Alteration or Extension**
- 4. Any additional relief the Board of Appeals may find necessary**

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in Town programs and services may make their needs known to **Robert Sneirson, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2328; TDD (617)-730-2327; or email at rsneirson@brooklinema.gov.***

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller and Board Members Christopher Hussey and Mark Zuroff. The case was presented by the attorney for the Petitioner, Robert L. Allen, Jr., Law Office of Robert L. Allen, Jr. LLP, 300 Washington Street, Second Floor, Brookline, Massachusetts 02445. Also in attendance was John Tobin, Vice President of Community Affairs, Dave Frazier, Director of Athletic Facilities, Peter Roby, Athletic Director, and architects Trey Sasser and Matt Reese.

Chairman Jesse Geller called the hearing to order at 7:15 p.m. Attorney Allen stated that the Petitioner proposes to increase parking and construct a pavilion with new press boxes and a grand stand with 109 additional seats.

Attorney Allen presented to the Board a background of the Petitioner and the property, stating the following: Northeastern University owns and operates Parsons Field, a five-and-a-half acre playing field located near the intersection of Kent Street and Aspinwall Avenue. Attorney Allen stated that the property is located in the T-5 District and is used by the Brookline High School and various Brookline summer leagues. Attorney Allen stated that the field provides seating for 1,750 spectators on the soccer field and seating for 300 spectators on bleachers near the baseball diamond. Attorney Allen stated that the Petitioner proposes to increase the seating near the baseball diamond for a total of 409 bleacher seats. Attorney Allen stated that the proposal includes a total of 44 visitor parking spaces.

Attorney Allen introduced the architect, Trey Sasser, 64 Pleasant Street, Watertown, MA 02472, to provide an overview of the proposal. Mr. Sasser stated that there are 300 seats currently scattered behind the dug outs and the addition of 109 seats will create an intimate experience behind home plate. Mr. Sasser stated that in addition to the seating, the proposal incorporates a permanent grand stand that includes storage and a concession stand.

Attorney Allen stated that while the Petitioner faced opposition at the first Planning Board hearing on July 24, 2014, several neighborhood meetings were held in order to address transportation, noise, and light concerns. Attorney Allen stated that pursuant to concerns about foul balls entering abutting properties, the Petitioner agreed to upgrade and expand the back stop netting. Attorney Allen stated that among other things, the Petitioner plans to upgrade and re-position the loudspeakers toward the field, provide additional landscaping, maintain the field lights, and work with the Town of Brookline to ensure "NO PARKING" signs are posted along Harrison and Kent Square to address abutters concerns.

Zoning Board of Appeals Member Christopher Hussey inquired about the existing crushed stone along Kent Street. Attorney Allen stated that due to drainage issues, the Petitioner did not want to

replace the crushed stone with landscaping along Kent Street because it helps control water erosion. Next, Board Member Hussey asked about the difference between the existing parking and the proposed parking on the site plan. Attorney Allen stated that Mr. Sasser calculated 38 existing parking spaces according to the standard stall width of 8.5 feet pursuant to **Section 6.04.2.a** of the Zoning By-Law. Attorney Allen stated that the Petitioner was able to provide 6 additional parking spaces by relocating a storage area, adding 2 parking spaces to the southwest corner of the field, and 10 new parking spaces on the northeast side of the field.

Attorney Allen stated that the Planning Board voted unanimously in support of this proposal. Attorney Allen stated that based on concerns by the Police Department, the Petitioner met with Captain Michael Gropman to discuss noise and litter control, lighting, and emergency services. Attorney Allen stated that the Petitioner also met with Todd Kirrane, the Transportation Administrator to discuss traffic impact, bus parking (including, prevention of bus parking on the local streets), and the campus shuttle schedule.

Finally, Attorney Allen stated that he believes the so-called "Dover Amendment" is applicable to this case and under M.G.L. c. 40A, § 3, "no ordinance or by-law...shall regulate or restrict the use of land or structures for ... educational purposes...; provided, however, that such land or structures may be subject to reasonable regulations." Attorney Allen stated that the conditions are reasonable and the Petitioner is eager to work with the Town of Brookline.

Counsel for the Petitioner then discussed zoning relief required from the Board. Attorney Allen stated that the proposal triggered special permit relief for **Section 6.02, Paragraph 1** and **Section 6.02.4.c** of the Zoning By-Law for a pre-existing non-conforming use. Attorney Allen stated that the increase in seating requires 102 parking spaces in the T-5 District. Attorney Allen stated that there are currently 38 parking spaces and the proposed parking plan includes 44 parking spaces. Attorney Allen

stated that the property primarily hosts student athletic events and the Petitioner is focused on increasing attendance at athletic events by attracting students from the main campus by providing a shuttle service.

Attorney Allen discussed relief under Section 8.02.1 and 2 of the Zoning By-Law where a special permit is required under Section 9.05 of the Zoning By-Law to alter and/or extend a non-conforming structure. As for Section 9.05, in looking at this conversion, (1) the specific site is an appropriate location where Parsons Field has served the Town of Brookline for 100 years by providing 5 acres of open space in the Kent Street neighborhood; (2) there will be no adverse effect on the neighborhood where the proposal will ensure long-term, productive use of the field by the Town of Brookline through use of the Petitioner's fields, locker room, and vendors; (3) no nuisance or serious hazard to vehicles or pedestrians exists where the Petitioner is committed to continue working with the Police and Transportation Departments to improve noise, traffic, and safety; (4) adequate and appropriate facilities will be provided for the proper operation and proposed use where the Petitioner plans to upgrade the back-stop netting, improve the lighting, and review the loudspeaker system; and (5) development will not have a significant adverse effect on the supply on housing available for low and moderate income people.

Zoning Board of Appeals Chairman Jesse Geller asked if there were any incidents of traffic accidents or noise complaints on Kent Street attributable to events at the property. Attorney Allen stated that there were no reported accidents or incidents of misconduct reported by the Police Department in response to events hosted at Parsons Field by the Petitioner.

Zoning Board of Appeals Chairman Jesse Geller asked if there was anyone present who wished to speak in favor of this application. No one spoke in favor of the application.

Zoning Board of Appeals Chairman Jesse Geller asked if there was anyone present who wished to speak in opposition to this application. No one spoke in opposition to the application.

Polly Selkoe, Assistant Director of Regulatory Planning for the Town of Brookline, delivered the findings of the Planning Board:

FINDINGS:

1. Section 6.02 – Paragraph 1: Table of Off-Street Parking Regulations
2. Section 6.02.4.c – Off-Street Parking Space Regulations

Parking Requirements	Required	Proposed	Relief
Parking Spaces (for addt'l. seats)	102	4 addtl	Special Permit*

* A special permit may permit a modification to the parking requirement to allow reasonable development of non-profit educational uses. There are 37 parking spaces currently.

3. Section 8.02.1 and 2 – Alteration or Extension

A special permit is required to alter a pre-existing non-conforming structure and use.

Ms. Selkoe stated that the Planning Board supports the upgrades to Parsons Field by Northeastern University if stringent conditions are attached to protect the surrounding residences from negative impacts. Ms. Selkoe stated that the Petitioner held several meetings with the neighborhood to discuss problems around games and field operations. Ms. Selkoe stated that the Petitioner will continue to work with the neighborhood on addressing issues that arise. Ms. Selkoe stated that in the past, the Petitioner permitted Brookline High School to use the fields for practices and games, although use of locker rooms and other facilities were not allowed. Ms. Selkoe stated that without the football field markings, the Town's use has been markedly limited. In return for granting special permit relief, Ms. Selkoe noted, the Town of Brookline should receive greater access to the field and facilities. Ms. Selkoe stated that if conditions minimizing impacts from parking, traffic, noise, light and litter are met, the proposed pavilion would be an appropriate improvement to an existing sports facility. Therefore, the Planning Board recommended approval of the proposal and plans by Sasaki, dated 7/16/2014, subject to the following conditions:

1. Prior to issuance of a building permit, a final site plan, indicating the location of all seating, parking spaces, pedestrian entrances, lighting, netting, and trash receptacles, shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final landscaping plan, with particular attention given to the Kent Street side, and a fencing plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval.
3. Prior to issuance of a building permit, final elevations of the pavilion showing the width of the third base side press box reduced by five feet (from 29' to 24') and indicating final design details, colors, materials and types of railings shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
4. Prior to issuance of a building permit, a contact name and cell phone number shall be submitted to the Planning and Building Departments of the persons responsible for addressing complaints during games. The list shall be updated as needed.
5. Prior to issuance of a building permit, the applicant shall agree in writing to notify the Town's Police Departments and Director of Transportation and Engineering when a major event is to take place at either the baseball or stadium fields so that NO PARKING signs on Harrison and Kent Square shall be posted. A major event is defined as an event sponsored by Northeastern University, at which 300 or more visitors are expected, and shall not include any events involving the Town of Brookline sporting teams. For all major events, the University agrees to provide shuttle buses from the campus, and to include with all notices and schedules of such events (website, mailings, newsletters, poster) that parking at the field is very limited and information about public transportation and the offsite parking/shuttles. The University also agrees that any agreements with other parties for major events shall include the same requirements and that visiting teams shall be requested to post similar notices. At such Major Events, the University agrees to provide portable toilet facilities as appropriate for the estimated number of visitors.
6. Prior to issuance of a building permit, the applicant shall submit a plan for the up-grade of baseball loudspeakers with new directional speakers focused downward and onto the field and so as to minimize sound transmission off the field. The University shall review the other loudspeakers on the field to ensure compliance with the Town's noise by-law.
7. Prior to issuance of a building permit, the applicant shall agree in writing to make every effort to keep noise levels down to an absolute minimum and shall abide by the noise restrictions set by the town. The use of Klaxon horns or other similar noisemaking devices shall be prohibited and such prohibitions shall be announced at the beginning of each event and enforced by the University through ejection from the field of users of such devices. The enforcement procedures shall also be announced at the beginning of each event. The use of whistles shall be by coaches and referees only. The University agrees that all agreements with other parties excluding the Town of Brookline, for use of the field, shall include all of the same requirements as described in this section.

8. Prior to issuance of a building permit, the applicant shall adjust, shield and maintain the field lights so that no direct light or glare shines on any street or nearby property and ensure the adequacy of security lighting to lead people off the field when the main lights are extinguished. The lights shall be turned on and used only for the purpose of illuminating the field for sports and events. If activities cease before 9 PM on any day, the lights shall be turned off at the cessation of such activities rather than 9 PM.
9. Prior to issuance of a building permit, the applicant shall agree in writing to be responsible for removing litter from the public ways abutting the field promptly after the close of each event.
10. Prior to issuance of a building permit, the applicant shall agree in writing to allow the Brookline High School use of the field for inter-scholastic football games, including providing shelter for the players during half-time and the use of the locker room for the Thanksgiving day game. Further, the applicant will provide the necessary field markings to meet league regulations. The University agrees to continue to talk with the Town about other opportunities for the Town to use the field for structured play, at mutually convenient times.
11. Prior to the issuance of a building permit, the applicant shall show a revised netting plan as presented to the neighborhood on 7/17/14 which extends the height and length of the netting along the first and third base lines including a plan of new poles and up-dated netting in other areas to protect abutters.
12. Prior to issuance of a building permit, the applicant shall submit to the Building Commissioner to ensure conformance with the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered engineer or land surveyor; 2) final building elevations, stamped and signed by a registered architect; and 3) written statements per condition numbers 4-5 and 7-10 above and 4) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Yanovitch, Chief Building Inspector, to deliver the comments of the Building Department. Mr. Yanovitch stated that there were no complaints filed with the Building Department in the last two years. Mr. Yanovitch stated that the applicant was receptive to the Building Department's concerns and amenable to the conditions imposed by the Planning Department. Mr. Yanovitch stated that the Building Department had no objections to the relief sought under this application.

In deliberation, Zoning Board of Appeals Member Mark Zuroff stated that he was in support of the relief requested where the Petitioner worked diligently with the Planning Board to agree upon the

proposed conditions. Zoning Board of Appeals Member Christopher Hussey stated support for the relief where the Petitioner was cooperative with the Town of Brookline and requests by immediate abutters. Zoning Board of Appeals Chairman Jesse Geller stated support where the property has existed as a field for more than 100 years, the use does not adversely affect the neighborhood, and there was no testimony to suggest that the Petitioner's use of the property created a nuisance or serious hazard to vehicles or pedestrians.

The Board then determined, by unanimous vote that the requirements for special permit relief from the application of Section 6.02 (Paragraph 1) and Section 8.02 of the Zoning By-Law pursuant to the provisions of Section 6.02.4.c; Section 8.02.1 and 2 and Section 9.05 of the Zoning By-Law were met. The Board declined to make a finding under M.G.L. Chapter 40A, Section 3. The Board made the following specific findings pursuant to said Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have a significant adverse effect on the supply on housing available for low and moderate income people.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to issuance of a building permit, a final site plan, indicating the location of all seating, parking spaces, pedestrian entrances, lighting, netting, and trash receptacles, shall be submitted to the Assistant Director of Regulatory Planning for review and approval.
2. Prior to issuance of a building permit, a final landscaping plan, with particular attention given to the Kent Street side, and a fencing plan shall be submitted to the Assistant Director for Regulatory Planning for review and approval.

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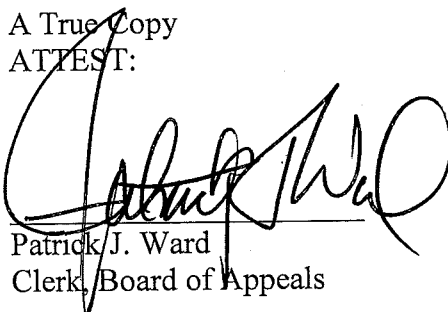
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Unanimous Decision of
The Board of Appeals

Filing Date: 10/6/14


Jesse Geller, Chairman

A True Copy
ATTEST:


Patrick J. Ward
Clerk, Board of Appeals

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